

BILLING CODE: 6720-01 P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 561

[No. 98-124]

RIN 1550-AB28

Consumer Credit Classified as a Loss, Slow Consumer Credit and Slow Loans

ACTION: Final rule.

SUMMARY: The Office of Thrift Supervision (OTS) is removing its regulatory definitions of “consumer credit classified as a loss,” “slow consumer credit,” and “slow loans.” These definitions are not necessary for the interpretation of any OTS regulation.

EFFECTIVE DATE: April 1, 1999.

FOR FURTHER INFORMATION CONTACT: William Magrini, Senior Project Manager, Supervision Policy, (202/906-5744), or Vern McKinley, Senior Attorney, Regulations and Legislation Division, Office of Chief Counsel, (202/906-6241), Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

Background

On September 23, 1998, OTS proposed to delete its regulatory definitions of “consumer credit classified as a loss,” “slow consumer credit,” and “slow loans.”¹

Consumer Credit Classified as a Loss -- § 561.13

Slow Consumer Credit -- § 561.47

Consumer credit is credit extended to individuals for personal, family or household purposes.² “Consumer credit classified as a loss” is defined at 12 CFR 561.13 as closed-end consumer credit that is delinquent 120 days or more (five monthly payments or more) and open-end consumer credit that is delinquent 180 days or more (seven zero billing cycles or more). “Slow consumer credit” is defined at 12 CFR 561.47 as closed-end consumer credit that is delinquent for 90 to 119 days (four monthly payments) and open-end consumer credit that is delinquent for 90 to 179 days (four to six zero billing cycles). Both definitions provide that a payment of 90 percent or more of the contractual payment is considered a full payment, and state that a loan is

¹ 63 FR 51305 (September 25, 1998).

² See 12 CFR 561.12.

not considered slow or a loss if an association can clearly demonstrate that repayment will occur regardless of delinquency status.

Neither of these terms is used in any other OTS regulation. The OTS, however, has issued guidance instructing examiners to follow these definitions when classifying closed-end and open-end consumer credit. Slow loans are presumed Substandard and consumer credit classified as a loss is presumed a Loss, subject to management providing documentation that such an adverse classification is not warranted.³

In July 1998, the Federal Financial Institutions Examination Council (FFIEC) sought public comment on a proposed Uniform Retail Credit Classification Policy (“Classification Policy”), a supervisory policy used by the federal banking agencies for the classification of retail credit loans of financial institutions.⁴ The OTS definitions of consumer credit classified as a loss and slow consumer credit conflicted with one of the options under consideration in the proposed Classification Policy.

Because the terms “consumer credit classified as a loss” and “slow consumer credit” are not used in OTS regulations and could conflict with the final FFIEC Classification Policy, OTS proposed to delete these two regulatory definitions.

³ Thrift Activities Handbook, Section 260, Classification of Assets.

⁴ 63 FR 36406 (July 6, 1998).

Slow Loans -- § 561.48

The term “slow loans” is defined at 12 CFR 561.48 with respect to loans that are issued on the security of a home.⁵ The classification of a loan as a slow loan is based on a variety of factors, including how long the loan is contractually delinquent, how seasoned the loan is, whether taxes are due and unpaid, and whether its terms have been modified or the loan has been refinanced due to delinquency.

Because the term “slow loan” is not used elsewhere in OTS regulations, the OTS also proposed to delete this term.⁶

Summary of Comment and Description of the Final Rule

OTS received one comment in response to the proposed rule from a thrift trade group. The commenter supported the proposal, noting that the FFIEC proposal to amend the Uniform Classification Policy would set out consistent, constructive guidance to identify and classify consumer loans. They agreed that retaining the cited regulatory definitions may cause confusion and is not necessary to meet any regulatory requirements.

⁵ 12 CFR 541.14 (“Home” means real estate comprising a single-family dwelling or dwelling unit for four or fewer families in the aggregate.)

⁶ Like the two other definitions, OTS has issued guidance to its examiners indicating that all slow mortgage loans are presumed to be Substandard. Thrift Activities Handbook, Section 260, Classification of Assets.

Elsewhere in today's Federal Register, FFIEC has published its final Uniform Retail Credit Classification Policy. While the final policy adopted by FFIEC does not conflict with the cited OTS definitions, the cited definitions remain unnecessary, as they are not used elsewhere in OTS's regulations. Accordingly, OTS is deleting §§ 561.13, 561.47, and 561.48 as proposed.

Executive Order 12866

OTS has determined that this final rule does not constitute a "significant regulatory action" for the purposes of Executive Order 12866.

Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act, OTS has determined that this final rule does not have a significant economic impact on a substantial number of small entities. The rule merely deletes unnecessary definitions from OTS regulations. This change should, therefore, reduce the burden of complying with regulations for all institutions, including small institutions.

Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, Pub. L. 104-4 (Unfunded Mandates Act) requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. As discussed above, this final rule reduces regulatory burden by eliminating unnecessary regulations. OTS has, therefore, determined that the effect of the rule will not result in expenditures by State, local, or tribal governments or by the private sector

of \$100 million or more. Accordingly, OTS has not prepared a budgetary impact statement or specifically addressed the regulatory alternatives considered.

List of Subjects in 12 CFR Part 561

Savings associations.

Accordingly, the Office of Thrift Supervision amends part 561, chapter V, title 12, Code of Federal Regulations as set forth below:

PART 561--DEFINITIONS

1. The authority citation for part 561 continues to read as follows:

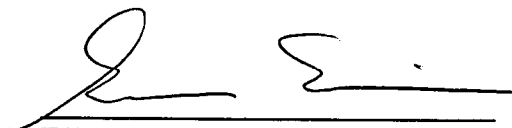
Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a.

§§ 561.13, 561.47, 561.48 [Removed]

2. Sections 561.13, 561.47 and 561.48 are removed.

DATED: December 18, 1998

By the Office of Thrift Supervision.



Ellen Seidman
Director